

## Request for Council Action

Originator Community Development	Item <b>Resolution and agreement transferring the septic enforcement program to Hennepin County</b>
Agenda Section HEARING/PUBLIC INPUT Ordinances	Date 10/13/2014
Description	

### GENERAL INFORMATION

Applicant: City of Bloomington

Request: Resolution and agreement with Hennepin County to transfer permitting and enforcement authority for Subsurface Sewage Treatment Systems ("SSTS" also called individual sewage treatment and septic systems) effective January 1, 2015.

### CHRONOLOGY

City Council Study Session: 05/07/12 – Presented option of transferring enforcement authority to Hennepin County based on the small number of remaining systems in Bloomington.

State Agency Request: 09/10/14 – Received letter from the Minnesota Pollution Control Agency (MPCA) requesting a written statement from the City by October 17, 2014, of its intention to either transfer enforcement authority to Hennepin County or update the City's Code within one year of Hennepin County's Ordinance #19 updates (by December 31, 2014).

### PROPOSAL

Staff proposes transferring the City's permitting and enforcement authority to Hennepin County for regulation of the remaining 42 in-use subsurface sewage treatment system (SSTS) beginning on January 1, 2015. The Minnesota Pollution Control Agency (MPCA) requires all cities and townships in the state to either update their SSTS ordinance within one year of the updates made by the county in which they are located or transfer enforcement authority to the county. Hennepin County updated its Ordinance #19 for SSTS on February 25, 2014 and requires a resolution and a signed agreement (both enclosed) providing advance notice of the change in enforcement authority. EH expects the remaining city SSTS programs in Hennepin County to transfer their enforcement programs to Hennepin County based on MPCA's mandate to update ordinances and the cost of maintaining state-certified inspection staff. The enclosed letter from MPCA dated September 8, 2014, asks the City respond in writing by October 17, 2014 with its intention to transfer the SSTS program to Hennepin County or update the City Code for SSTS by December 31, 2014. The City Council initially discussed transferring the program to Hennepin County at the May 7, 2012 study meeting.

## BACKGROUND

City's Program: Currently, there are 42 subsurface sewage treatment systems (SSTS) in the City. Thirty-six are connected to houses and six to non-residential bathrooms serving remote park, golf course and garden center locations. The enclosed map of SSTS locations shows 17 residential systems in green indicating no sewer line is available in an adjacent street and 19 in red indicating that a sewer is available in the adjacent street. All remaining systems are located in areas difficult and costly to access requiring crossing neighboring properties, installing more than 150 feet of pipe and/or requiring a lift station. Three of the 36 systems serving homes will be demolished or connected to the municipal sewer as part of the Rahr and Dwan residential development projects. Maintaining this program at the City would require inspectors to maintain state certification, which is relatively expensive (\$500/year for classes) in relation to the revenue from the small number of pumping, installation, abandonment or repair permits (\$154 revenue in 2013).

In 1960, Bloomington's 12,281 single-family homes and 77 multiple-family buildings were all served by septic systems and private wells. Bacteria and nitrate contamination in private wells (from failing SSTS on small lots) caused the rapid installation of municipal sewer and water in the City. Today, Environmental Health's (EH) main activity for the program is tracking maintenance of existing systems by owners or service providers. Maintenance involves checking the sludge and scum levels in the tanks and routinely removing the sludge before it reaches the baffles where it can flow into and clog the drain field. State code requires that systems, at a minimum, have the sludge and scum levels measured and/or pumped out every three years; however, most owners proactively have their tanks pumped annually. Pumping activities are reported to EH under a permit (\$11) by the licensed contractors or homeowners and EH sends reminder notices to owners every three years.

On February 25, 2014, Hennepin County amended its ordinance triggering the 12 month Minnesota Pollution Control Agency (MPCA) requirement that the City update its ordinance to adopt the newly created MN Rules, Chapters 7080, 7081, 7082 and 7083 for SSTS. All city ordinances in Hennepin County must be at least as strict as the County's according to MPCA requirements.

County's Program: In the late 1990s, MPCA mandated that all counties have a program for enforcing state SSTS requirements in local ordinances. In response, Hennepin County adopted Ordinance #19 in September 1999 and began permitting new systems and conducting enforcement on failing systems in 2000. Prior to this, Hennepin County did not have a program and all cities in the County were responsible for regulating SSTS in their boundaries.

The County's program is funded by permit fees for system installations, repairs, tank replacements and abandonment of unused systems. The County's program covers about 5,000 existing systems and meets the minimum requirements in state rule and statute. The Hennepin County program includes:

1. Reviewing permit applications for SSTS;
2. Issuing required permits;
3. Conducting construction inspections and performing necessary tests to determine a system's conformance with the ordinance;
4. Investigating complaints regarding SSTS. Complaints of illegal sewage discharges are investigated same day or next County business day;
5. Performing compliance inspections and issuing Certificates of Compliance or Notices of Noncompliance on newly installed systems;
6. Issuing Stop Work Orders and Notices of Violation pursuant to ordinance;

7. Taking complaints to the Municipal or County Attorney for ordinance violations;
8. Maintaining records including site evaluation records, design records including calculations and summaries for all system component sizes and as-built plans, complaints on noncompliance, compliance inspections, site evaluations, applications and exhibits, variance requests, issued permits, certificates of compliance, and enforcement proceedings;
9. Submitting annual reports to the MPCA to demonstrate enforcement of the ordinance per Chapter 7080.0310.

Hennepin County's program and permit fees are very similar to Bloomington's. See the enclosed County 2014 permit application with fees and a brochure about the County's program listing the cities in its 2014 enforcement jurisdiction. In order to delegate the City's enforcement authority to the County, the City Council must adopt a resolution, sign an agreement and remove SSTS regulations from Bloomington's ordinance.

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Requested Action

Staff recommends that the City Council approve the resolution and sign the agreement to transfer the SSTS program to Hennepin County beginning January 1, 2015.

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Attachments:

Resolution transferring SSTS enforcement authority to Hennepin County  
Agreement with Hennepin County to transfer SSTS enforcement authority  
Map of Bloomington with remaining system locations  
Hennepin County SSTS permit application with fees and program brochure  
September 8, 2014 letter from MPCA